

109TH CONGRESS
1ST SESSION

S. 1577

To facilitate the transfer of Spearfish Hydroelectric Plant Number 1 to the city of Spearfish, South Dakota, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 29, 2005

Mr. JOHNSON (for himself and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To facilitate the transfer of Spearfish Hydroelectric Plant Number 1 to the city of Spearfish, South Dakota, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds that—

5 (1) Spearfish Hydroelectric Plant Number 1—

6 (A) operates under a right-of-way grant
7 administered by the Forest Service; and

8 (B) is not subject to the jurisdiction of the
9 Federal Energy Regulatory Commission;

(2) the transfer of the Plant from the Homestake Mining Company to the city of Spearfish, South Dakota—

(A) would maintain the historic benefits of the Plant; and

(B) would not—

(i) affect the validity of the right-of-way grant; or

(ii) subject the Plant to the jurisdiction of the Commission; and

(3) it is in the public interest for the Plant to continue to operate in a manner that protects and improves—

(A) fish hatchery operations;

(B) recreation;

(C) historical interpretation;

(D) irrigation;

(E) hydroelectric power generation; and

(F) the aesthetic value of Spearfish City

Park.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term “Commission” means the Federal Energy Regulatory Commission.

1 (2) PLANT.—The term “Plant” means the
2 Spearfish Hydroelectric Plant Number 1 that—

3 (A) is located in Lawrence County, South
4 Dakota;

5 (B) operates in accordance with a valid
6 right-of-way grant—

7 (i) issued by the General Land Office
8 of the Department of the Interior in 1909;
9 and

10 (ii) administered by the Forest Serv-
11 ice as of the date of enactment of this Act;
12 and

13 (C) is described in Commission docket
14 number UL00–3.

15 (3) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior.

17 **SEC. 3. EXEMPTION OF THE PLANT FROM COMMISSION JU-**
18 **RISDICTION.**

19 Part I of the Federal Power Act (16 U.S.C. 791a
20 et seq.) shall not apply to the Plant until and unless other-
21 wise provided by Congress.

22 **SEC. 4. STUDY OF SPEARFISH CREEK HYDROLOGY.**

23 (a) IN GENERAL.—The Secretary, acting through the
24 United States Geological Survey, shall carry out a study
25 of the hydrology of Spearfish Creek, South Dakota.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to the Secretary to carry
3 out the study under subsection (a) \$250,000 for each of
4 fiscal years 2006 through 2009.

5 **SEC. 5. SENSE OF CONGRESS.**

6 It is the sense of Congress that the city of Spearfish,
7 South Dakota, to provide for the restoration and improve-
8 ment of Spearfish Creek, should—

9 (1) uphold the Memorandum Agreement of the
10 city of Spearfish and the Spearfish Canyon Land-
11 owners Association, dated September 14, 2004; and

12 (2) take action to release additional water flow
13 of approximately 5 to 10 cubic feet per second be-
14 tween the Maurice Intake Dam and the Spearfish
15 Diversion.

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